

NOT FOR PUBLICATION

APR 23 2008

UNITED STATES COURT OF APPEALS

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

CAROLINA AYALA-CERVANTES,

Petitioner,

v.

MICHAEL B. MUKASEY, Attorney  
General,

Respondent.

No. 07-74758

Agency No. A98-931-013

MEMORANDUM \*

On Petition for Review of an Order of the  
Board of Immigration Appeals

Submitted April 15, 2008 \*\*

Before: B. FLETCHER, FISHER and PAEZ, Circuit Judges.

This is a petition for review of the Board of Immigration Appeals' summary affirmance of the immigration judge's decision finding petitioner removable under 8 U.S.C. § 1182(a)(6) for having pled guilty to falsely representing herself to be a citizen of the United States in violation of federal law pursuant to 18 U.S.C. § 1542.

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\* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

\*\* The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Petitioner presented one argument to the agency and to this court. She contends the waiver provision in 8 U.S.C. § 1182(i) violated her equal protection rights because the statute does not provide the possibility of a discretionary waiver for those found removable for having fraudulently claimed United States citizenship pursuant to 8 U.S.C. § 1182(a)(6)(ii), as it does for those found removable for having generally committed fraud or misrepresentation pursuant to 8 U.S.C. § 1182(a)(6)(i). We conclude that petitioner has failed to meet her burden to show that the statute's classifications with regard to the availability of a waiver are "wholly irrational." *Tovar-Landin v. Ashcroft*, 361 F.3d 1164, 1167 (9th Cir. 2004). Petitioner's equal protection argument therefore fails.

Respondent's motion for summary disposition is granted because the questions raised by this petition for review are so insubstantial as not to require further argument. *See United States v. Hooton*, 693 F.2d 857, 858 (9th Cir. 1982) (per curiam) (stating standard). Accordingly, this petition for review is denied.

To the extent petitioner requests a stay of voluntary departure, that request is denied because the agency did not grant petitioner voluntary departure.

All other pending motions are denied as moot. The temporary stay of removal confirmed by Ninth Circuit General Order 6.4(c) shall continue in effect until issuance of the mandate.

**PETITION FOR REVIEW DENIED.**